Legal Update

- RJR/LeBow – Focused Attention on Fraudulent Conveyance

COMPELLED PRODUCTION

2041642989

2041642989

Production Pursuant to Court Order #1015, Civil Action No. 99-CV-2496

Source: https://www.industrydocuments.ucsf.edu/docs/spwh0005

Legal Update

- RJR/LeBow – Focused Attention on Fraudulent Conveyance
- Fraudulent Conveyance Involves a Distribution to Shareholders by an Insolvent Corporation

COMPELLED PRODUCTION

2041642990

2041642990

Production Pursuant to Court Order #1015, Civil Action No. 99-CV-2496

Source: https://www.industrydocuments.ucsf.edu/docs/spwh0005

Legal Update

- RJR/LeBow – Focused Attention on Fraudulent Conveyance
- Fraudulent Conveyance Involves a Distribution to Shareholders by an Insolvent Corporation
- Nabisco Represents Two-thirds of RJR Market Value

COMPELLED PRODUCTION

2041642991

2041642991

Production Pursuant to Court Order #1015, Civil Action No. 99-CV-2496

Source: https://www.industrydocuments.ucsf.edu/docs/spwh0005

Legal Update

- RJR/LeBow – Focused Attention on Fraudulent Conveyance
- Fraudulent Conveyance Involves a Distribution to Shareholders by an Insolvent Corporation
- Nabisco Represents Two-thirds of RJR Market Value
- Plaintiffs Would Have Sought to Enjoin Spin-off

COMPELLED PRODUCTION

2041642992

2041642992

Production Pursuant to Court Order #1015, Civil Action No. 99-CV-2496

Source: https://www.industrydocuments.ucsf.edu/docs/spwh0005

Legal Update

- Liggett Settlement a Ploy

COMPELLED PRODUCTION

2041642993

Slide# 2
Subdue Build

Job#CG3086.FC

DZH96MAY17

David Lewinter

2041642993

Production Pursuant to Court Order #1015, Civil Action No. 99-CV-2496

Source: https://www.industrydocuments.ucsf.edu/docs/spwh0005

COMPELLED PRODUCTION

Legal Update

- Liggett Settlement a Ploy
- Plaintiffs Agreed Not to Challenge Spin-Off

2041642994

2041642994

Production Pursuant to Court Order #1015, Civil Action No. 99-CV-2496

Source: https://www.industrydocuments.ucsf.edu/docs/spwh0005

Safe Harbor for Distributions

- Remedy Under Fraudulent Conveyance Statutes Is to Recover Transferred Property

COMPELLED PRODUCTION

2041642995

2041642995

Production Pursuant to Court Order #1015, Civil Action No. 99-CV-2496

Source: https://www.industrydocuments.ucsf.edu/docs/spwh0005

Safe Harbor for Distributions

- Remedy Under Fraudulent Conveyance Statutes Is to Recover Transferred Property
- Under Corporate Law Directors May Be Liable for Unlawful Distributions

COMPELLED PRODUCTION

2041642996

2041642996

Production Pursuant to Court Order #1015, Civil Action No. 99-CV-2496

Source: https://www.industrydocuments.ucsf.edu/docs/spwh0005

Safe Harbor for Distributions

- Remedy Under Fraudulent Conveyance Statutes Is to Recover Transferred Property
- Under Corporate Law Directors May Be Liable for Unlawful Distributions
- Virginia Has Statutory Safe Harbor for Distributions

COMPELLED PRODUCTION

2041642997

2041642997

Production Pursuant to Court Order #1015, Civil Action No. 99-CV-2496

Source: https://www.industrydocuments.ucsf.edu/docs/spwh0005

Safe Harbor for Distributions

- Remedy Under Fraudulent Conveyance Statutes Is to Recover Transferred Property
- Under Corporate Law Directors May Be Liable for Unlawful Distributions
- Virginia Has Statutory Safe Harbor for Distributions
- "Distribution" Includes Dividends, Repurchases and Spin-Offs

CONFIDENTIAL PRODUCTION

2041642998

2041642998

Production Pursuant to Court Order #1015, Civil Action No. 99-CV-2496

Source: https://www.industrydocuments.ucsf.edu/docs/spwh0005

Safe Harbor for Distributions

- Remedy Under Fraudulent Conveyance Statutes Is to Recover Transferred Property
- Under Corporate Law Directors May Be Liable for Unlawful Distributions
- Virginia Has Statutory Safe Harbor for Distributions
- "Distribution" Includes Dividends, Repurchases and Spin-Offs
- Challenge Must Come Within Two Years

COMPELLED PRODUCTION

2041642999

2041642999

Production Pursuant to Court Order #1015, Civil Action No. 99-CV-2496

Source: https://www.industrydocuments.ucsf.edu/docs/spwh0005

Safe Harbor for Distributions

- Two Solvency Tests

COMPELLED PRODUCTION

2041643000

Slide# 4
Subdue Build

Job#CG3086.FC

DZH96MAY17

David Lewinter

2041643000

Production Pursuant to Court Order #1015, Civil Action No. 99-CV-2496

Source: https://www.industrydocuments.ucsf.edu/docs/spwh0005

Safe Harbor for Distributions

- Two Solvency Tests
  - Ability to Pay Debts in Usual Course

COMPUTED PRODUCTION

2041643001

2041643001

Production Pursuant to Court Order #1015, Civil Action No. 99-CV-2496

Source: https://www.industrydocuments.ucsf.edu/docs/spwh0005

Safe Harbor for Distributions

- Two Solvency Tests
  - Ability to Pay Debts in Usual Course
  - Total Assets Exceed Total Liabilities

COMPELLED PRODUCTION

2041643002

2041643002

Production Pursuant to Court Order #1015, Civil Action No. 99-CV-2496

Source: https://www.industrydocuments.ucsf.edu/docs/spwh0005

Safe Harbor for Distributions

- Two Solvency Tests
  - Ability to Pay Debts in Usual Course
  - Total Assets Exceed Total Liabilities
- Solvency Determination May Be Based on Financial Statements or Other Reasonable Method

COMPELLED PRODUCTION

Production Pursuant to Court Order #1015, Civil Action No. 99-CV-2496

2041643003

2041643003

Source: https://www.industrydocuments.ucsf.edu/docs/spwh0005

Safe Harbor for Distributions

- Two Solvency Tests
  - Ability to Pay Debts in Usual Course
  - Total Assets Exceed Total Liabilities
- Solvency Determination May Be Based on Financial Statements or Other Reasonable Method
- Safe Harbor Protects Directors Even if Hindsight Proves Them Incorrect

COMPARISON PRODUCTION

2041643004

2041643004

Production Pursuant to Court Order #1015, Civil Action No. 99-CV-2496

Source: https://www.industrydocuments.ucsf.edu/docs/spwh0005

Safe Harbor for Distributions

- Past Solvency Determinations Were Implicit

COMPELLED PRODUCTION

2041643005

Slide# 5
Subdue Build

Job#CG3086.FC

DZH96MAY17

David Lewinter

2041643005

Production Pursuant to Court Order #1015, Civil Action No. 99-CV-2496

Source: https://www.industrydocuments.ucsf.edu/docs/spwh0005

Safe Harbor for Distributions

- Past Solvency Determinations Were Implicit
- Unlikely That PM's Dividend Would Be Challenged

COMPELLED PRODUCTION

2041643006

2041643006

Production Pursuant to Court Order #1015, Civil Action No. 99-CV-2496

Source: https://www.industrydocuments.ucsf.edu/docs/spwh0005

Safe Harbor for Distributions

- Past Solvency Determinations Were Implicit
- Unlikely That PM's Dividend Would Be Challenged
- RJR Increased Dividend 23% and Initiated Share Repurchase Program Without Challenge

COMPELLED PRODUCTION

2041643007

2041643007

Production Pursuant to Court Order #1015, Civil Action No. 99-CV-2496

Source: https://www.industrydocuments.ucsf.edu/docs/spwh0005

Safe Harbor for Distributions

- Past Solvency Determinations Were Implicit
- Unlikely That PM's Dividend Would Be Challenged
- RJR Increased Dividend 23% and Initiated Share Repurchase Program Without Challenge
- Routine Distributions Out of Cash Flow Not Likely to Be Challenged

COMPELLED PRODUCTION

2041643008

2041643008

Production Pursuant to Court Order #1015, Civil Action No. 99-CV-2496

Source: https://www.industrydocuments.ucsf.edu/docs/spwh0005

Safe Harbor for Distributions

- Board Should Take Explicit Advantage

COMPELLED PRODUCTION

2041643009

2041643009

Production Pursuant to Court Order #1015, Civil Action No. 99-CV-2496

Source: https://www.industrydocuments.ucsf.edu/docs/spwh0005

Safe Harbor for Distributions

- Board Should Take Explicit Advantage
- Proper Determination Will Protect Directors

COMPELLED PRODUCTION

2041643010

Source: https://www.industrydocuments.ucsf.edu/docs/spwh0005

2041643010

Production Pursuant to Court Order #1015, Civil Action No. 99-CV-2496

Safe Harbor for Distributions

- Board Should Take Explicit Advantage
- Proper Determination Will Protect Directors
- No Downside, and Prudent

COMPELLED PRODUCTION

2041643011

2041643011

Production Pursuant to Court Order #1015, Civil Action No. 99-CV-2496

Source: https://www.industrydocuments.ucsf.edu/docs/spwh0005

Safe Harbor for Distributions

- Board Should Take Explicit Advantage
- Proper Determination Will Protect Directors
- No Downside, and Prudent
- Procedural Steps to Determine Solvency

COMPELLED PRODUCTION

2041643012

Source: https://www.industrydocuments.ucsf.edu/docs/spwh0005

2041643012

Production Pursuant to Court Order #1015, Civil Action No. 99-CV-2496

Safe Harbor for Distributions

- Management's Advice

COMPELLED PRODUCTION

2041643013

Slide# 7
Subdue Build

Job#CG3086.FC

DZH96MAY17

David Lewinter

2041643013

Production Pursuant to Court Order #1015, Civil Action No. 99-CV-2496

Source: https://www.industrydocuments.ucsf.edu/docs/spwh0005

Safe Harbor for Distributions

- Management's Advice
  - Financial Statements Show Substantial Cash Flow and Equity; Auditor's Report Is "Clean"

COMPELLED PRODUCTION

2041643014

2041643014

Production Pursuant to Court Order #1015, Civil Action No. 99-CV-2496

Source: https://www.industrydocuments.ucsf.edu/docs/spwh0005

Safe Harbor for Distributions

- Management's Advice
  - Financial Statements Show Substantial Cash Flow and Equity; Auditor's Report Is "Clean"
  - Litigation Should Not Have Material Adverse Effect

CONFIRMED PRODUCTION

2041643015

2041643015

Production Pursuant to Court Order #1015, Civil Action No. 99-CV-2496

Source: https://www.industrydocuments.ucsf.edu/docs/spwh0005

Safe Harbor for Distributions

- Management's Advice
  - Financial Statements Show Substantial Cash Flow and Equity; Auditor's Report Is "Clean"
  - Litigation Should Not Have Material Adverse Effect
  - Outside Counsel Reviews Payout Plans

CONFIDENTIAL PRODUCTION

2041643016

Slide# 7
Subdue Build

Job#CG3086.FC

DZH96MAY17

David Lewinter

2041643016

Production Pursuant to Court Order #1015, Civil Action No. 99-CV-2496

Source: https://www.industrydocuments.ucsf.edu/docs/spwh0005

Safe Harbor for Distributions

- Management's Advice
  - Financial Statements Show Substantial Cash Flow and Equity; Auditor's Report Is "Clean"
  - Litigation Should Not Have Material Adverse Effect
  - Outside Counsel Reviews Payout Plans
  - Five-Year Plan Projects Substantial Cash Flow and PM Is Strongly Capitalized and Highly Liquid

CONFIDENTIAL - SUBJECT TO PROTECTIVE ORDER

2041643017

2041643017

Production Pursuant to Court Order #1015, Civil Action No. 99-CV-2496

Source: https://www.industrydocuments.ucsf.edu/docs/spwh0005

Safe Harbor for Distributions

- Management's Advice
  - Financial Statements Show Substantial Cash Flow and Equity; Auditor's Report Is "Clean"
  - Litigation Should Not Have Material Adverse Effect
  - Outside Counsel Reviews Payout Plans
  - Five-Year Plan Projects Substantial Cash Flow and PM Is Strongly Capitalized and Highly Liquid
  - External Validation (Credit Ratings, Borrowing Capacity and Market Capitalization)

CONFIDENTIAL SUBJECT TO PROTECTIVE ORDER

2041643018

2041643018

Production Pursuant to Court Order #1015, Civil Action No. 99-CV-2496

Source: https://www.industrydocuments.ucsf.edu/docs/spwh0005

Safe Harbor for Distributions

- Management's Advice
  - Financial Statements Show Substantial Cash Flow and Equity; Auditor's Report Is "Clean"
  - Litigation Should Not Have Material Adverse Effect
  - Outside Counsel Reviews Payout Plans
  - Five-Year Plan Projects Substantial Cash Flow and PM Is Strongly Capitalized and Highly Liquid
  - External Validation (Credit Ratings, Borrowing Capacity and Market Capitalization)
- Solvency Tests Are Met

CONFIDENTIAL Subject to Protective Order

2041643019

2041643019

Production Pursuant to Court Order #1015, Civil Action No. 99-CV-2496

Source: https://www.industrydocuments.ucsf.edu/docs/spwh0005

Safe Harbor for Distributions

- Finance Committee Should Conclude Solvency Tests Are Satisfied

COMPELLED PRODUCTION

Production Pursuant to Court Order #1015, Civil Action No. 99-CV-2496

2041643020

2041643020

Source: https://www.industrydocuments.ucsf.edu/docs/spwh0005

Safe Harbor for Distributions

- Finance Committee Should Conclude Solvency Tests Are Satisfied
- Directors Can Rely on Advice of Management and Financial Statements

COMPELLED PRODUCTION

2041643021

2041643021

Production Pursuant to Court Order #1015, Civil Action No. 99-CV-2496

Source: https://www.industrydocuments.ucsf.edu/docs/spwh0005

Safe Harbor for Distributions

- Finance Committee Should Conclude Solvency Tests Are Satisfied
- Directors Can Rely on Advice of Management and Financial Statements
- Safe Harbor Is Available

COMPELLED PRODUCTION

2041643022

2041643022

Production Pursuant to Court Order #1015, Civil Action No. 99-CV-2496

Source: https://www.industrydocuments.ucsf.edu/docs/spwh0005

Safe Harbor for Distributions

- Finance Committee Should Conclude Solvency Tests Are Satisfied
- Directors Can Rely on Advice of Management and Financial Statements
- Safe Harbor Is Available
- Formal Determination Should Be Made for All Distributions

COMPELLED PRODUCTION

2041643023

2041643023

Production Pursuant to Court Order #1015, Civil Action No. 99-CV-2496

Source: https://www.industrydocuments.ucsf.edu/docs/spwh0005